

State of California
Regional Water Quality Control Board
San Diego Region

ENFORCEMENT SUMMARY REPORT
May 12, 2010

- ITEM: 11
- SUBJECT: Administrative civil liability against the County of Riverside Municipal Storm Water Program. The San Diego Water Board will consider adoption of a tentative Order that would accept an offer to settle administrative civil liability proposed in Complaint No. R9-2009-0026 for violations of Order No. R9-2004-001. The proposed settlement supports the assessment of \$234,291. (Tentative Order No. R9-2010-0069) (Christina Arias)
- PURPOSE: The San Diego Water Board will consider adoption of Tentative Order No. R9-2010-0069 (Supporting Document No. 1) that approves the Settlement Agreement directing payment of \$234,291 to the Cleanup and Abatement Account. If the San Diego Water Board rejects the tentative Order, the matter may be rescheduled to a future public hearing at which time the San Diego Water Board will receive evidence and testimony and consider assessment of liability.
- PUBLIC NOTICE: Notice of the San Diego Water Board's consideration of the tentative Order, amount of the proposed settlement, and the opportunity for public comment was posted on the San Diego Water Board's website and sent to interested parties on March 3, 2010. Notice was also published in the Riverside Press-Enterprise on March 10, 2010.
- DISCUSSION: The County of Riverside (Discharger) owns and operates a municipal separate storm sewer system (MS4) located within the Santa Margarita Watershed, regulated by San Diego Water Board Order No. R9-2004-001, *Waste Discharge Requirements for Discharges of Urban Runoff From the Municipal*

Separate Storm Sewer Systems (MS4s) Draining the County of Riverside, the City of Murrieta, the City of Temecula and the Riverside County Flood Control and Water Conservation District within the San Diego Region.

On December 10, 2009, the San Diego Water Board Assistant Executive Officer issued ACL Complaint No. R9-2009-0026 with a Staff Report (Supporting Document No. 2) to the Discharger recommending that the San Diego Water Board impose an administrative civil liability (ACL) on the County of Riverside in the amount of \$612,591 for violations of Order No. R9-2004-001. The ACL includes liability for specific violations of Order No. R9-2004-001, as discussed below.

Violations of Provisions for Development Planning

The Discharger violated Provision F by failing to adequately implement a Standard Urban Storm Water Mitigation Plan (SUSMP) for projects in the area of Riverside County regulated by the San Diego Water Board. Provision F requires the Discharger to develop, adopt, and implement a SUSMP by July 14, 2005. Implementation of the SUSMP and permanent, post construction best management practices (BMPs) on all construction projects qualifying as Priority Development Projects (PDPs) are necessary to reduce pollutants to the maximum extent practicable (MEP).

Failure to Implement Adequate BMPs at Scott Road

The Discharger violated Provision F by failing to (1) implement adequate post-construction BMPs at the Scott Road Improvement Project, and (2) review and ensure that the Scott Road Improvement Project met SUSMP requirements prior to issuing building or grading permits for the project.

Violation of Discharge Prohibition A.3

The Discharger violated prohibition A.3 by failing to reduce pollutants to the MEP in the discharge from its MS4. By failing to implement the SUSMP and BMPs at the Scott Road Improvement Project, the discharger failed to reduce pollutant concentrations to the MEP for any post-construction runoff ultimately

discharged from the MS4 system. Between November 27, 2008 (the date construction was completed), and December 10, 2009, the discharger failed to implement adequate BMPs and reduce pollutant concentrations to the MEP standard for a total of 12 days of rainstorm runoff from the Scott Road Improvement Project.

Status of Compliance

The Discharger completed the following steps to satisfy the terms of the settlement and ensure future compliance with the requirements of Order No. R9-2004-001:

By letter dated April 23, 2010 (Supporting Document No. 3), the County of Riverside's Assistant County Executive Officer submitted a declaration stating that: a) the County is in compliance with SUSMP provisions as they apply to PDPs and verified that all departments subject to Order No. R9-2004-001 shall effectively implement the provisions of Section F, and b) all departments implementing PDPs shall be prepared to implement the provisions of Section F in the event that a PDP is approved by the County's Board of Supervisors.

The Discharger met with San Diego Water Board staff concerning the enhancement of post-construction BMPs at Scott Road on April 5, 2010. The staff noted that with the exception of one bioswale, the remaining BMPs were adequate for the intended purpose of treating pollutants from the road expansion. The Discharger has committed to fixing the remaining inadequate bioswale. Staff continue to work with the Discharger to ensure this site is in full compliance with Order No. R9-2004-001.

The Discharger has committed to conducting a training workshop by December 31, 2010 (or three months after the issuance of an Order superseding Order No. R9-2004-001) to educate other Copermitees and interested parties on SUSMP provisions.

Liability Amount

The Discharger presented the Prosecution Team with an offer to settle the liability proposed in the Complaint with a payment of \$234,291 to the Cleanup and Abatement Account. The liability amount recoups the estimated economic benefit enjoyed by the Discharger for failing to implement adequate BMPs at the Scott Road Improvement Project (\$88,924) and the San Diego Water Board staff costs (\$64,291).

LEGAL CONCERNS:

None.

SUPPORTING
DOCUMENTS:

1. Tentative ACL Order No. R9-2010-0069 with Settlement Agreement and Stipulation
2. ACL Complaint No. R9-2009-0026 with Staff Report and Attachments
3. Letter and Declaration from County of Riverside to San Diego Water Board dated April 23, 2010

RECOMMENDATION:

The Prosecution Team recommends adoption of Tentative ACL Order No. R9-2010-0069 in the amount of \$234,291.